

SUBJECT: Asset forfeiture funds for college scholarships, statewide asset report

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Christian, Fletcher, Miklos, Moody, Riddle, Vaught,
Vo

0 nays

3 absent — Hodge, Kent, Pierson

SENATE VOTE: On final passage, May 8 — 29-0

WITNESSES: No public hearing

BACKGROUND: Code of Criminal Procedure (CCP), ch. 59 makes property that is contraband subject to seizure by law enforcement agencies and to forfeiture. CCP, art. 59.06 requires forfeited property to be administered by the prosecutor, under a local agreement between the prosecutor and law enforcement agencies. Under CCP, art. 59.06(c), funds staying at the local level can be used for three purposes: official purposes of the prosecutor's office; municipal law enforcement purposes such as salaries, overtime, officer training, investigative equipment and supplies, and items use by officers in direct law enforcement duties; or law enforcement purposes for a county law enforcement agency. CCP. art. 59.06(c)(4) states that funds distributed to a state law enforcement agency can be used solely for law enforcement purposes.

CCP, art. 59.06 also includes exceptions to these general criteria. Under CCP, art. 59.06(o), the governing body of a political subdivision or a local law enforcement agency can use some of the funds to provide financial assistance to Texas residents who plan to enroll or are enrolled in an institution of higher education in a field related to law enforcement, if that person plans to return to that locality to work for the political subdivision or the agency in a field related to law enforcement.

Under CCP, art. 59.06(g)(1), law enforcement agencies and prosecutors must account for contraband proceeds and property in an annual audit by

the commissioners court or city. The audit must be completed on a form provided by the attorney general. Certified copies of the audit must be delivered by the prosecutor or agency to the comptroller and the attorney general.

DIGEST:

SB 1707 would allow law enforcement agencies to use up to 10 percent of the gross amount of its seized and forfeited asset fund to provide scholarships to children of peace officers who were employed by the local agency or an agency with overlapping jurisdiction and were killed in the line of duty.

The scholarships could be used only to pay tuition and fees, and the costs for housing, books, supplies, transportation, and other personal expenses. The funds would be transferred to a special fund of the political subdivision or state law enforcement agency and would be administered by the law enforcement agency.

By April 1 of each year, the attorney general would have to develop a report detailing the total value of forfeited property in Texas in the preceding year, as specified by the agencies that seized the property. The attorney general would have to include on the office's website in a prominent location a link to the most recent report.

The bill would take effect September 1, 2009.